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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,658	11/25/2003	Ryoichi Togashi	03714/LH	8803
1933	7590	07/11/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 5TH AVE FL 16 NEW YORK, NY 10001-7708			PAHNG, JASON Y	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/723,658	TOGASHI ET AL.
	Examiner Jason Y. Pahng	Art Unit 3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,9,10,13 and 14 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,7,8,11,12 and 15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/25/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of Species I, claims 1-4, 7, 8, 11, 12, and 15 in the reply filed on June 9, 2005 is acknowledged. Claims 1, 2, and 15 are generic.

***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because it is not clear which elements the reference numbers 60 and 70 represents. According to the specification, page 8, the element 70 includes at least the elements 71, 72, 73, and 74. However, the reference number 70 does not appear to include the elements 71, 72, 73, and 74 in the drawings. Also, the element 60 includes at least the elements 61 and 64 according to the specification, page 8. However, the reference number 60 does not appear to include the elements 61 and 64 in the drawings.

Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 7, 8, 11, 12, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the "reaction force receiver mechanism of an up-thrust type" is indefinite. Defining up-thrust type requires at least a swing jaw. However, the reaction force receiver mechanism does not include a swing jaw. It is impossible to determine whether a reaction force receiver mechanism is of an up-thrust type or down-thrust type without involving a swing jaw.

Regarding claim 1, the toggle plate is part of a reaction force receiver mechanism. Then, it is impossible for the toggle plate to be held between the swing jaw and the reaction force receiver mechanism as claimed.

Regarding claim 1, what is the relationship between the toggle plate support member and the toggle plate holder mechanism?

With regard to claims 7 and 8, it is not clear how a single notch is formed corresponding to a plurality of swing centers.

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, as well as can be understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Anthony (US 3,918,648).

With regard to claim 1, Anthony discloses a jaw crusher including:

1. a fixed jaw (3);
2. a swing jaw (6);
3. a reaction force receiver mechanism (15, 12, 16, 20) of an up-thrust type;
4. a toggle plate (15);
5. a toggle plate support member (12); and
6. a toggle plate holder mechanism (the bearing members at each end of the toggle plate; for example, one of the bearing member is shown in Figure 2) which link the toggle plate between the swing jaw and the reaction force receiver mechanism.

Claims 1-4, as well as can be understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Cookinham (US 1,620,078).

With regard to claim 1, Cookinham discloses a jaw crusher including:

1. a fixed jaw (2);
2. a swing jaw (4);

3. a reaction force receiver mechanism (32, 22, spring (near 9), nut (near 9)) of an up-thrust type;
4. a toggle plate (32);
5. a toggle plate support member (22); and
6. a toggle plate holder mechanism including a tension link, a rod, and a spring shown in Figure 1.

With regard to claim 2, Cookinham discloses the reaction force receiver mechanism which has an outlet clearance adjustment mechanism. The toggle plate holder mechanism has a biasing portion including a spring (near 9).

With regard to claims 3 and 4, Cookinham discloses a spring (near 9) and a tension rod (near 36) in Figure 1. One end of a tension link is connected to the tension rod and the other end of the tension link is connected to the swing jaw (4). A tension lever is disclosed near the spring.

With regard to claims 3 and 4, Cookinham discloses swing centers at two sides of the tension link positioned near swing centers at two sides of the toggle plate (32).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cookinham (US 1,620,078) in view of Sandy (US 2,259,833).

Claims 11 and 12 call for a toggle plate divided into plural pieces. In a closely related art, Sandy discloses a jaw crusher with a toggle plate divided into two pieces in order to accommodate two tension links. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Cookinham with a toggle plate divided into two pieces in order to accommodate two tension links, as taught by Sandy. The toggle plate is divided at a position where the tension links are provided.

With regard to claims 7 and 8, as well as can be understood, the divided toggle plates of Sandy includes two notches, one on each side corresponding to the swing centers at two sides of the tension link.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cookinham (US 1,620,078) in view of Togashi et al. (US 2002/0036246). Claim 15 calls for a self-propelled crushing machine. In a closely related art, Togashi ('246) discloses a self-propelled crushing machine (Figure 7) in order to mount a jaw crusher. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Cookinham with a self-propelled crushing machine in order to mount his jaw crusher, as taught by Togashi ('246).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Y. Pahng whose telephone number is 571 272

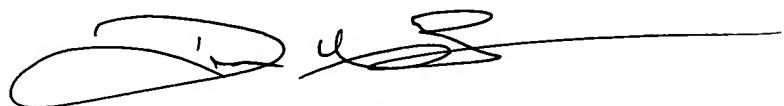
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4522. The examiner can normally be reached on 9:00 AM - 7:00 PM, Monday-  
Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571 272 4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JYP



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